IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY SECOND DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE C.Y.SOMAYAJULU

WRIT PETITION NO : 19224 of 2004

Between:

S.Anjaiah, s/o. S.Lingamaiah,
R/o.H.No.3-4-835/2, Barkatpura, Hyderabad.

..... PETITIONER

AND

1. Govt. of A.P., Transport (R&B) Department,
   Secretariat, Hyderabad rep. by its Special Chief Secretary.
2. The District Collector, Hyderabad District, Nampally Station

Road, Hyderabad.
3. The Special Deputy Collector (LA) (General),

O/o. Hyderabad District Collectorate,
Nampally Station Road, Hyderabad.
4. The Chief Engineer (R&B) Roads, Erramanzil, Hyderabad.
5. The Superintending Engineer (R&B), Rural Circle, Hyderabad.

(Respondents 4 and 5 impleaded as per Court order

dated 28.10.2004 in WPMP 25891 of 2004)

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue a direction, writ or order, one in the nature of Mandamus:- a) declaring the action of the respondents in not paying the compensation amount of Rs.88,69,320.00 to the petitioner for the land acquired to an extent of 583 sq.metres equivalent to 694 sq.yards carved out of Survey No.385/386/I/P, 447, 448 and 449 in T.S.Nos.156, 157 and 158 Block-A, Ward No.165, situated at Amberpet Village and Mandal, Hyderabad District for widening of Golnaka Bridge across the Hussain Sagar Nala at Amberpet, Hyderabad is arbitrary, illegal and depriving the petitioner's land, without paying the compensation affecting the petitioner's rights guaranteed under Article 300(A) of the Constitution of India; b) directing the respondents to pay the said compensation amount of Rs.88,69,320.00 to the petitioner with

interest @ 18% per annum; c) granting all consequential benefits; d) awarding costs;

Counsel for the Petitioner: MR.M.RAMA RAO

Counsel for the Respondent Nos.1 to 5: GP FOR TRANSPORT

The Court made the following :

ORDER:

For widening the Golnaka bridge across Hussain Sagar Nala, 583 square metres of land equivalent to 694 square yards in Survey No.385/386/I/P, 447, 448 and 449 in T.S.Nos.156, 157 and 158, Block-A, Ward No.165 situated at Amberpet village, belonging to the petitioner was taken possession of from the petitioner in 2000, by making a representation to him that he would be paid compensation at Rs.9,000/- per Sq. yard, apart from the statutory benefits as per the Land Acquisition Act (the Act). Since respondents did not pay the compensation payable to him in respect of the said land taken possession of from him, in spite of several representations and since no award is passed so far, petitioner filed this petition seeking a direction to the respondents to pay compensation for the land taken possession of from him.

2. In the counter affidavit filed by the third respondent (the Land Acquisition Officer), on behalf of the respondents, he admitted that the Executive Engineer (Roads and Buildings), City Roads Division, took possession of the land belonging to the petitioner for expansion of the new bridge at Golnaka and that he received a requisition in Lr.No.D3/D3/CRD/2000-2001/2323 dated 24.05.2000 for acquisition of the said land, and after conducting joint inspection, he asked the requisitioning department, tentatively, to deposit Rs.88,99,320/- for initiating land acquisition proceedings, and since the requisitioning department did not provide the requisite funds, he did not take further proceedings.

3. Heard learned Counsel for the petitioner and learned Government Pleader.

4. The fact that 583 sq. metres of land, equivalent to 694 sq. yards, belonging to the petitioner was taken over possession of from him for construction of a bridge as long back as in 2000 is not denied or disputed by the respondents. In fact in the letter bearing Lr.No.B/123/99 dated 20.01.2000 addressed by the Mandal Revenue Officer, Amberpet (copy of which is filed by the petitioner), to the Collector, Hyderabad, he (M.R.O.) admitted the petitioner's ownership over the land taken possession of from him. In the letter dated 19.02.2002 in Lr.No.C6/3702/2002 addressed by the Superintending Engineer (R&B) Rural Circle, Hyderabad, to the Chief Engineer (R&B), copy of which is produced by the petitioner along with the writ petition, while admitting his taking over possession of the land of petitioner, he made a request for funds to be deposited towards the tentative cost of land of the petitioner, which is sought to be acquired. But no amount is deposited and it is not the case of the respondents that they paid any amount to the petitioner. Thus, it is clear that in respect of land which was taken over possession of in 2000, petitioner is not paid any amount till today though as per
Section 17 (3A) of the Act, 80% of the estimated value of the land has to be given to the land owner, before taking over possession.

5. The learned Government Pleader by producing the letter of Secretary to Government, Transport, Roads and Buildings Department, reading

> "The attention of the Govt. Pleader for R&B, APHC., is invited to the references cited and he is to informed that the matter i.e. payment of compensation of Land Acquisition charges in connection with the W.P.NO.19224/04 related to Golnaka Bridge at Km 2/02 across Hussainsagar Nala on Hyderabad-Hanamakonda is under active consideration of Government and it may take some more time to finalise the issue due presentation of Budget and other A.P.L.A. matters.
>
> He is therefore requested to apprise the above position to the Hon'ble High Court and seek some more time to deposit the amount in the Court, and intimate the next date of hearing on the above case to Government."

sought time for deposit of the amount. I find no grounds to grant any further time to deposit, because about 5 years elapsed from the date of taking over possession of the land from the petitioner and admittedly no proceeding for acquisition of that land are initiated even till now. According to Section 11-A of the Act, if award is not passed within 2 years of the date of publication of the declaration, the proceedings for acquisition would lapse. As per Section 31 of the Act while passing the award Land Acquisition Officer has to tender compensation to the persons interested. Without following due process of law petitioner is deprived of his land by the respondents. By not paying 80% of the tentative value at the time of taking over possession, the authorities clearly violated Section 17(3A) of the Act. Here it should be stated that in his letter dated 20.01.2000 in Lr.No.B/123/99, addressed to the Collector, the Mandal Revenue Officer, Amberpet, referred to above, he clearly stated that petitioner is a poor man eking his livelihood on the income from the grass grown over the land taken over from him. Thus, by taking over his land, petitioner is deprived of his livelihood. Granting any further time would cause great injustice to the petitioner.

6. In view of the above, action of the respondents in taking over possession of the land without paying any compensation for over five years cannot but be said to be arbitrary, if not autocratic, and hence is violative of Article 300-A of Constitution of India. Therefore, respondents are directed to deliver vacant possession of 583 sq. metres land taken over from him to the petitioner, within a period of two weeks from today. They should also pay damages for use and occupation for the said land at the rate of Rs.100/- per day, from the date of taking over possession till the date of delivery of possession, to the petitioner, besides costs of this petition. Advocate fee is fixed at Rs.500/-.

7. Accordingly, Rule Nisi is made absolute.

C.Y.SOMAYAJULU, J.

Dated: 22nd February, 2005.

NOTE:

Issue C.C. by tomorrow

B/O

Cs

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this Tuesday, the Twenty Second day of February, Two Thousand and Five.

ASSISTANT REGISTRAR

To

1. The Special Chief Secretary, Govt. of A.P., Transport (R&B)

Department, Secretariat, Hyderabad.
2. The District Collector, Hyderabad District, Nampally Station

Road, Hyderabad.
3. The Special Deputy Collector (LA) (General),

O/o. Hyderabad District Collectorate,
Nampally Station Road, Hyderabad.
4. The Chief Engineer (R&B) Roads, Erramanzil, Hyderabad.
5. The Superintending Engineer (R&B), Rural Circle, Hyderabad.
6. Two C.Cs. to the Government Pleader for Transport, High

Court Buildings, Hyderabad. (O.U.T.)

7. Two C.D. copies.